

Introduction

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The following listed legislation and regulations relate to the ECM.

Enabling Legislation

Foreign countries have established plant quarantine regulations which exporters of U.S. agricultural products are required to meet. To enable PPQ to help exporters meet the plant quarantine import requirements of foreign countries, the Plant Protection Act passed in 2000 (previously covered by the Organic Act of 1944). The Plant Protection Act provides the authority for issuing FPC's for the export of plants and plant products. The regulation for enforcing the Plant Protection Act is 7CFR Part 353.

Endangered Species Legislation

The legislation and a treaty that protect endangered species of plants offered for export are The Endangered Species Act (ESA) and The Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES). The regulations for enforcing ESA and CITES are 50CFR Parts 17 and 23; and 7CFR Parts 355 and 356.

ESA:

ESA provides for the protection of listed species in two categories. These categories in order of their restrictiveness are as follows:

1. Endangered—any species, subspecies, or variety that is in danger of extinction throughout all or a significant portion of its range.
2. Threatened—any species, subspecies, or variety that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

In general, ESA prohibits the trade in endangered and threatened species. The export of endangered species of plants is allowed only for scientific research, enhancement of propagation, and enhancement of survival. The Department of the Interior issues export permits for endangered species only under exceptional conditions.

The export of threatened species may be allowed for scientific research, enhancement of propagation, enhancement of survival, educational exhibition, display at botanical gardens and arboreturns, and other activities consistent with the purposes and policy of ESA.

In all instances, the export of plants protected by ESA requires a permit issued by the Department of the Interior through the Division of Management Authority (DMA). PPQ does not issue DMA permits.

CITES:

CITES is a multinational treaty that regulates the export and reexport of listed species of wild fauna and flora. CITES provides three appendixes for listing plants. These appendixes in order of their restrictiveness are as follows:

1. Appendix I—any genus, **species**, subspecies, or variety, globally threatened with extinction through trade.
2. Appendix II—any taxon (the entire family—all genera and all species) that must be regulated in order to avoid the threat of extinction through trade.
3. Appendix III—any **species**, subspecies, or variety listed by one country in order to enlist the cooperation of other countries to reinforce domestic conservation measures by regulating trade.

Trade in protected species of CITES plants is monitored. More specifically, commercial trade in Appendix I plants taken from the wild is prohibited, and commercial trade in Appendix II plants is allowed only if that trade is not detrimental to the survival of the species in the wild.

The export of CITES plants requires an DMA permit or certificate that the exporter must apply for to export protected plants. PPQ does not issue these export documents. However, for all commercial exports and reexports of protected plants, the exporter must hold a USDA General Permit (PPQ Form 662) issued by PPQ.

Regulations

7CFR Part 353:

1. Provides a list of PPQ regional offices where information can be obtained for issuing export certificates for the export of plants and plant products.
2. Provides a list of designated ports where phytosanitary certificates may be issued for terrestrial plants listed in 50CFR Parts 17 and 23 offered for export.
3. Identifies the responsibilities of exporters. Exporters must provide a written application for inspection at the port of certification, make the plants or plant products accessible to allow for an efficient inspection and verification, and furnish all labor involved in the inspection.
4. Identifies the responsibility of Authorized Certification Officials (ACO's). The Authorized Certification Official (ACO) signs and issues a phytosanitary certificate based on the findings of an inspection. The inspection may be made on an officially drawn sample, representative sample, or the entire lot.
5. Contains a provision to ensure that Authorized Certification Officials (ACO's) do not inspect and certify plants or plant products in which they or members of their family have a direct or indirect financial interest.
6. Provides for issuing export certificates and entering into cooperative export certification programs.

7CFR Part 354.3:

Provides the authority to collect user fees and overtime costs for export certificates.

7CFR Part 355:

Provides the authority and procedures to administer and require General Permits for the importation, exportation, or re-exportation of endangered or threatened terrestrial plants, which are listed in 50CFR Part 17 and 50CFR 23

7CFR Part 356:

Provides the authority and procedures for the forfeiture of any plant, equipment, means of conveyance or other property seized under the Endangered Species Act of 1973 or the Lacey Act Amendments of 1981.

50CFR Part 17.12:

Provides a list of all species of plants that have been determined by the United States Fish and Wildlife Service, Department of the Interior, to be Endangered or Threatened.

50CFR Part 23.23:

Provides a list of all species of plants and animals that have been placed in Appendix I, II, or III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES.

50CFR Part 24.12:

Provides a list of U.S. Department of Agriculture ports that are designated ports for the importation, exportation, or re-report of plants listed in 50CFR Part 17.11 or 50CFR 23.23.